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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,732	03/08/2002	Hiroshi Kajiyama	3620-4014	5009
27123	7590	07/10/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P.			BEFUMO, JENNA LEIGH	
3 WORLD FINANCIAL CENTER			ART UNIT	PAPER NUMBER
NEW YORK, NY 10281-2101			1771	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,732

Applicant(s)

KAJIYAMA ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-11, 76 and 77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-11, 76 and 77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The Amendment submitted on March 30, 2006, has been entered. Claims 1 – 4 and 12 – 75 have been cancelled. Claim 6 has been amended. Therefore, the pending claims are 5 – 11, 76, and 77.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 5 – 8, 76, and 77 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287753 A in view of Kolstad et al. (6,114,495) for the reasons of record.

4. Claims 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287753 A and Kolstad et al. as applied to claim 5 above, and in further view of Matsui et al. (6,174,602) for the reasons of record.

5. Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287735A and Kolstad et al. as applied to claim 5 above, and in further view of Matsui et al. and *Wellington Sears Handbook of Industrial Textiles* (pages 57 – 60) for the reasons of record.

Response to Arguments

6. Applicant's arguments filed March 30, 2006 have been fully considered but they are not persuasive. The applicant argues that the rejection based on JP '753 in view of Kolstad et al. relies on impermissible hindsight since the JP '753 discloses an infinite number of polylactic acid compositions can be used to produce the disclosed filaments (response, pages 5 – 6). While it is acknowledge that JP '753 discloses that the polylactic acid can be made with L- and/or D-

Art Unit: 1771

lactic acid isomers and combinations thereof, JP '753 explicitly discloses using a L-lactic acid homopolymer as the lactic acid component in the polymer resin. While JP '753 includes a broad teaching that any polylactic acid polymer can be used, the reference specifically teaches using L-lactic acid homopolymer. Therefore, the rejection is not based on hindsight, or applicant's teachings, but on the preferred teachings disclosed in JP '753. Therefore, the rejection is maintained.

7. Further, the applicant argues that the rejection of claims 9 and 10 is based on improper hindsight because the improved properties are based on a combination of selected parameters (response, pages 7 – 8). However, as set forth in the rejection, how parameters such as velocity and draw ratio effect the properties of the filament are known. Further, to make the filaments taught by JP '753 one of ordinary skill in the art would need to choose these processing parameters. Therefore, it would be within the level of ordinary skill in the art to optimize the extrusion conditions to produce fibers with good tensile strength and crystallization properties. Thus, the rejection is maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


Art Unit: 1771

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jenna-Leigh Befumo
June 29, 2006